



Paper No. 11

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In re Application of :
Zucker, Peckover, and Poore :
Application No. 09/100,671 : DECISION REFUSING STATUS
Filed: 19 June, 1998 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 19010.715 :

This is in response to the petition under 37 CFR 1.47(a), filed on 21 June, 1999.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on 16 June, 1998, without an executed oath or declaration.

Accordingly, on 7 July, 1998, a "Notice To File Missing Parts of Application" was mailed, requiring the basic filing fee, an executed oath or declaration, and a surcharge for their late filing.

In response, on 21 June, 1999, petitioner filed, *inter alia*, the instant petition under 37 CFR 1.47(a), and (a) the required petition fee and surcharge for late filing; (b) a declaration signed by inventors Peckover and Poore on behalf of themselves and inventor Zucker; (c) the last known address of non-signing inventor Zucker.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers

(specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The instant petition lacks items (1). Petitioner has not provided proof that a copy of the application (specification including claims, drawings, if any, and Declaration) were sent or given to the non-signing inventor for review.¹ Petitioner merely states that a copy of the declaration was sent to the non-signing inventor and that a meeting was arranged for the non-signing inventor to review the application, but that the meeting did not occur. Petitioner must provide proof that a copy of the application was sent or given to the non-signing inventor for review. Petitioner should provide a copy of the cover letter transmitting the application papers (specification including claims, drawings, if any, and the Declaration) to the non-signing inventor, or provide details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Petitioner must also provide proof that the non-signing inventor refuses to sign the Declaration after reviewing the application. If there is a written refusal, petitioner should submit a copy of that written refusal. If the refusal was made orally, petitioner must provide details of the refusal in an affidavit or declaration of facts by the person with first-hand knowledge.

The Verified Statement (Declaration) Claiming Small Entity Status filed on 21 June, 1999, is accepted.

Further-correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
2201 S. Clark Place
Arlington, VA

¹MPEP 409.03(d).

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.

A handwritten signature in cursive script, appearing to read "Beverly M. Flanagan".

Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy